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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No.

2011-739

12 **SHARI ELLEN MILLER**
1921 9th St.
13 Los Osos, CA 93402
14 Registered Nurse License No. 713936

A C C U S A T I O N

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 15, 2007, the Board of Registered Nursing issued Registered
23 Nurse License Number 713936 to Shari Ellen Miller (Respondent). The Registered Nurse
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on February 28, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. California Code of Regulations, title 16, section 1443, states:

"As used in Section 2761 of the code, 'incompetence' means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5."

5. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

8. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

10. Respondent is subject to disciplinary action under section 2761, subdivision (a), on the grounds of unprofessional conduct while employed as a Registered Nurse at Atascadero State Hospital, a California Department of Mental Health. The circumstances are as follows:

a. On or about October 19, 2008, Respondent unlocked a secure door known as Unit 23 (a locked Admissions unit) thereby granting unauthorized access to two patient inmates to attend a Karaoke Enrichment Group, without program approval. These patient inmates, known as Patients P and W¹, were housed in a different area known as Unit 19. Respondent's actions violated hospital policies, and jeopardized both facility security and the safety of patients and staff. Further, Respondent's actions compromised patient treatment outcomes.

b. Additionally, on or about October 19, 2008, Respondent aided and abetted and failed to report an inappropriate and unprofessional social relationship between a fellow staff member and a patient inmate. Specifically, Respondent assisted this staff member in mailing a personal letter expressing romantic interest towards Patient P.

SECOND CAUSE FOR DISCIPLINE

(Incompetence)

11. Respondent is subject to disciplinary action under sections 2761, subdivision (a)(1), in conjunction with California Code of Regulations, title 16, section 1443, in that Respondent committed acts of incompetence by failing to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse. In summary, Respondent committed the following acts:

a. Respondent willingly and knowingly violated hospital policy by aiding and abetting an inappropriate and unprofessional social relationship between a staff member and a patient

¹ Initials being used for privacy reasons.

1 inmate by not reporting it. Specifically, on or about October 19, 2008, Respondent knowingly
2 and willingly mailed a letter to a patient/inmate that had been given to her by a fellow staff
3 member. The content of the letter was personal and expressed romantic interest towards the
4 patient/inmate. Respondent failed to report this incident to her supervisor.

5 b. On or about October 19, 2008, Respondent willingly and knowingly unlocked a
6 secure door to give access to two patient inmates to attend a group on her unit. This violation of
7 hospital policy could have jeopardized the security and safety of other patient inmates.
8 Moreover, Respondent's actions were without prior authorization from the unit's Program
9 Director.

10 **PRAYER**

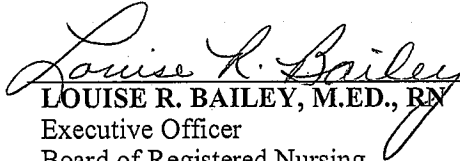
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

13 1. Revoking or suspending Registered Nurse License Number 713936, issued to
14 Respondent Shari Ellen Miller.

15 2. Ordering Respondent Shari Ellen Miller to pay the Board of Registered Nursing the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

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21 DATED: 2/28/11


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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